

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

DAREK MICHAEL GORDON,
Defendant.

Case No. 3:17-CR-00055-TMB-MMS

**FINAL REPORT AND
RECOMMENDATION OF THE
MAGISTRATE JUDGE ADMISSION
TO VIOLATION**

Upon Defendant's request to enter an admission, pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure and 18 USC 3583, to Violation 10 of the Third Superseding Petition [Doc. 104], this matter came before the Magistrate Judge, with the verbal consents of Defendant, counsel for Defendant, and counsel for the United States for a hearing on Defendant's admission, in open court and on the record.

The parties stipulated that the balance of the violations of the Third Superseding Petition would be dismissed at the time of disposition.

In consideration of that hearing and the colloquy made by the Defendant under oath, on the record, in the presence of counsel, and the remarks of the Assistant United States Attorney,

A. I make the following FINDINGS – that the Defendant understands:

- ☒ That any false statements made by the Defendant under oath may later be used against him in a prosecution for perjury;
- ☒ The right to deny the allegation;
- ☐ The consequences of not being a United States citizen;
- ☒ The nature of the allegation against the Defendant;
- ☐ The loss of certain federal benefits;
- ☒ The maximum possible sentence, including imprisonment, fine, supervised release, and any applicable mandatory minimum sentence;
- ☐ The Court's authority to order restitution;
- ☐ The mandatory special assessment;
- ☐ Any applicable forfeiture;
- ☒ The right to an evidentiary hearing;
- ☒ The right to be represented by counsel and, if necessary, to have the court appoint counsel at proceedings, and at every other stage of the proceedings;
- ☒ The right to: confront and cross-examine adverse witnesses, to remain silent, to testify and present evidence, and to compel the attendance of witnesses;
- ☒ Waiver of the right to an evidentiary hearing;
- ☐ That the Defendant knowingly, intelligently, and voluntarily waives all right to appeal or collaterally attack (except on the grounds of ineffective assistance of counsel and the voluntariness of his plea); and

☒ That in determining a sentence, the court's obligation to calculate the applicable sentencing guideline range pursuant to the Sentencing Guidelines promulgated by the United States Sentencing Commission and to consider that range, as well as departures under the Sentencing Guidelines, and variances under 18 U.S.C. §3553(a).

B. I further FIND that:

1. The Defendant is competent to enter an informed admission;
2. The Defendant is aware of his rights and has had the advice of legal counsel;
3. That the admission by the Defendant has been knowingly and voluntarily made and is not the result of force, threats, or coercion;
4. There is no agreement between the parties in this open admission; and
5. That there is a factual basis for the Defendant's admission.

C. I RECOMMEND that the District Court accept the Defendant's admission to Violation 10 of the Third Superseding Petition.

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D. IT IS ORDERED:

The Disposition hearing will be before United States District Judge.

DATED this 27th of July 2024, at Anchorage, Alaska.

s/ Matthew M. Scoble
MATTHEW M. SCOBLE
United States Magistrate Judge

This Report and Recommendation is being issued as a Final Report and Recommendation. Pursuant to Fed. R. Crim P. 59(b)(3), any objections will be considered by the District Court Judge who will accept, reject, or modify the recommendation following de novo review. Any objections must be filed within **three (3) days** from the date of service of this Report and Recommendation. **The shortened objection deadline is due to the request of the District Court Judge. Fed. R. Crim P. 59(b)(2) and D. Ak. L.M.R. 6(a) authorizes the court to alter the standard objection deadlines.**

Reports and recommendations are not appealable orders. Any notice of appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District Court's judgment. *See Hilliard v. Kincheloe*, 796 F.2d 308 (9th Cir. 1986).